

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 11. STATE BOARD OF DENTAL EXAMINERS

Editor's Note: The following Notice of Proposed Rulemaking was exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 2944.)

[R14-177]

PREAMBLE

- 1. Articles, Parts and Sections Affected (as applicable)**

R4-11-402	Amend
R4-11-403	New Section
R4-11-404	New Section
R4-11-405	Amend
R4-11-406	Amend
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. §§ 32-1207(A)(1) and (12), 32-1207(B)(3)(C), and 32-1207(E) and (F)

Implementing statute: A.R.S. §§ 32-1213(B)(4), (C), and (D), 32-1232(A) and (B), 32-1236(C), (D), and (F), 32-1240(B), 32-1262(G), 32-1284(A), 32-1287(A), (C), (D), and (F), 32-1292.01(B), 32-1297.04, 32-1297.06, and 32-1299.23
- 3. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the proposed rule:**

Notice of Rulemaking Docket Opening: 20 A.A.R. 2842, October 24, 2014
- 4. The agency's contact person who can answer questions about the rulemaking:**

Name:	Elaine Hugunin, Executive Director
Address:	State Board of Dental Examiners 4205 N. 7th Ave., Suite 300 Phoenix, AZ 85013
Telephone:	(602) 542-4493
Fax:	(602) 242-1445
E-mail:	elaine.hugunin@azdentalboard.us
Website:	www.dentalboard.az.gov
- 5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

House Bill 2744 enacted August 2, 2012, amended A.R.S. § 41-1008 to require an agency to establish or increase a fee within rules.

Per A.R.S. §§ 32-1234, 32-1236, 32-1287, and 32-1296.06, the Board is required to establish the license and renewal fee for Dentists, Dental Consultants, Dental Hygienists and Denturists at least every three years in a public meeting. To be able to collect the fee, the Board needs to establish the fees in rule. The license fees will be placed in New Section R4-11-403 License and Renewal Fees.

Other fees which need to be established in rule are:

Notices of Proposed Rulemaking

A Business Entity Late fee - statutory authority ARS 32-1213(D),
A Jurisprudence exam fee for dentists - statutory authority ARS 32-1232(B),
A Jurisprudence exam fee for dental hygienists - statutory authority ARS 32-1984(A),
A Credential fee for dentists - statutory authority ARS 32-1240(B),
A Credential fee for dental hygienists - statutory authority ARS 32-1292.01(B),
A Reinstate penalty fee for dentists - statutory authority ARS 32-1236(D),
A Reinstate penalty fee for dental hygienists - statutory authority ARS 32-1287(D),
A Reinstate penalty fee for denturists - statutory authority ARS 32-1297.06(D),

Mobile Dental Facility and Portable Dental Unit:

Permit/registration Fee statutory authority A.R.S. § 32-1299.23(A),
Late fee statutory authority A.R.S. § 32-1299.23(A), and
Address/Contact Penalty statutory authority A.R.S. § 32-1299.23(B) will be placed in New Section R4-11-404
Mobile Dental Facility and Portable Dental Unit Fees.

The language in R4-11-402(B) dealing with civil penalty fees is being deleted and moved to R4-11-405 Other Fees.

The rule will include format, style, and grammar necessary to comply with the current rules of the Secretary of State and the Governor's Regulatory Review Council. The Board believes that approval of these rules will benefit the public health and safety by clearly establishing the fees collected by the Board.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The agency did not review or rely on any study relevant to the rule.

7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The proposed rules will impact the Board, licensees, business entities, mobile dental facilities, portable dental units, and the public. The amended rule's impact on the Board will be the usual rulemaking-related costs, which are minimal.

The Board estimates the amended rules will have minimal economic impact on licensees, business entities, mobile dental facilities, portable dental units. A.R.S. § 32-1299.23 requires the Board to issue a permit to an individual or entity to operate at a mobile dental facility or portable dental unit. The statutes requires the Board to establish a fee for the permit in rule. The Board established the annual fee of \$50 for each permit. The Board estimates there will be 21 mobile dental facilities or mobile dental units registrations issued the first year. The cost to each individual or entity will be \$50 per year. The cost to the individual or entity is minimal.

A.R.S. § 32-1299.23 requires the Board to establish and impose a late fee on a permit holder whose permit expires and a penalty fee on a permit holder who fails to notify the Board of changes to address or contact persons within 10 days. The Board estimates the number of late fee or penalty fee violations could be from zero to 10 percent of the number of permits issued. The cost to individual permit holders would be \$50 for late fee and \$50 for penalty fee, which is minimal.

A.R.S. § 32-1213 requires the Board to establish and impose a late fee on a business entity whose registration expires. The Board estimates the number of late fee violations could be from zero to 10 percent of the number of registrations issued. The cost to individual registrants would be the normal renewal fee plus the \$100 late fee, which is minimal.

The amended rules have no economic impact on the public.

The Board, licensees, licensees, business entities, mobile dental facilities, portable dental units, and the public benefit from rules that are clear, concise, and understandable. The rules' benefit the public health and safety by clearly establishing the fees collected by the Board.

9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:

Name: Elaine Hugunin, Executive Director
Address: State Board of Dental Examiners
4205 N. 7th Ave., Suite 300
Phoenix, AZ 85013
Telephone: (602) 542-4493
Fax: (602) 242-1445

Notices of Proposed Rulemaking

E-mail: elaine.huginin@azdentalboard.us

Website: www.dentalboard.az.gov

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Comments may be written or presented orally. Written comments must be received by 5:00 p.m., Monday, December 8, 2014. An oral proceeding is scheduled for:

Date: December 8, 2014

Time: 10:00 a.m.

Location: State Board of Dental Examiners
4205 N. 7th Ave., Suite 300
Phoenix, AZ 85013

A person may request information about the oral proceeding by contacting the person listed above.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

Not applicable

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rules do not require a permit.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

No

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 11. STATE BOARD OF DENTAL EXAMINERS

ARTICLE 4. FEES

Section

R4-11-402. Business Entity Fees

R4-11-403. ~~Repeated~~ Dentist, Dental Hygienist and Denturist Triennial Renewal Fees and Prorated Initial License Fees

R4-11-404. ~~Repeated~~ Mobile Dental Facility and Portable Dental Unit Fees

R4-11-405. Other Fees

R4-11-406. ~~Fees for~~ Anesthesia and Sedation ~~Permits~~ Permit Fees

ARTICLE 4. FEES

R4-11-402. Business Entity Fees

A. Under A.R.S. § 32-1213(B)(3), the fee for a Business Entity triennial registration is: \$100 per year, \$300.00 per location.

B. The civil penalty fee for failure to notify the Board of a change in either business entity name, address, telephone number, location of any office, or licensee responsible for dental services within 30 days after the change is \$50. The civil penalty fee increases to \$100 if a business entity fails to notify the Board of the change within 60 days. Business Entity triennial registration renewal late fee: \$100.00.

R4-11-403. ~~Repeated~~ Dentist, Dental Hygienist and Denturist Triennial Renewal Fees and Prorated Initial License Fees

A. Dentist triennial renewal fee: \$600.00.

Notices of Proposed Rulemaking

- B. Dentist prorated initial license fee: \$110.00.
- C. Dental hygienist triennial renewal fee: \$300.00.
- D. Dental hygienist prorated initial license fee: \$55.00.
- E. Denturist triennial renewal fee: \$275.00.
- F. Denturist prorated initial license fee: \$46.00.

R4-11-404. Repealed Mobile Dental Facility and Portable Dental Unit Fees

- A. Mobile dental facility annual fee is \$50.00.
- B. Mobile dental facility late fee: \$50.00.
- C. Portable dental unit annual fee is \$50.00.
- D. Portable dental unit late fee: \$50.00.
- E. Mobile dental facility failed notification penalty fee: \$50.00.
- F. Portable dental unit failed notification penalty fee: \$50.00.

R4-11-405. Other Fees

- A. Duplicate license: \$25.00.
- B. Duplicate certificate: \$25.00.
- C. License verification:
 - 1. For licensee: \$25.00.
 - 2. For non-licensee: \$5.00.
- D. Copy of ~~tape~~ audio recording: \$10.00.
- E. Photocopies (per page): \$0.25.
- F. Mailing lists:
 - 1. Dentists:
 - a. In-state - paper or labels: \$150.00.
 - b. All licensees - paper or labels: \$175.00.
 - c. ~~Computer disk~~ Digital format: \$100.00
 - 2. Dental hygienists:
 - a. In-state - paper or labels: \$150.00.
 - b. All licensees - paper or labels: \$175.00.
 - c. ~~Computer disk~~ Digital format: \$100.00.
 - 3. Denturists: All certificate holders - paper, ~~or~~ labels, or digital format: \$5.00.
- G. Board meeting agendas and minutes (mailed directly to consumer):
 - 1. Agendas and minutes (annual fee): \$75.00.
 - 2. Agendas only (annual fee): \$25.00.
 - 3. Minutes only (annual fee): \$50.00.
- H. Jurisprudence examination fee:
 - 1. Dentists: \$300.00.
 - 2. Dental Hygienists: \$100.00.
 - 3. Denturists: \$250.00.
- I. Licensure by credential fee:
 - 1. Dentists: \$2,000.00.
 - 2. Dental Hygienists: \$1,000.00.
- J. Penalty fee to reinstate an expired license or certificate:
 - 1. Dentists: \$100.00.
 - 2. Dental Hygienists: \$100.00.
 - 3. Denturists: \$100.00.
- K. Penalty fee for failure to notify Board of a change of mailing address:
 - 1. Dental Hygienists:
 - a. Failure after 10 days: \$50.00.
 - b. Failure after 30 days: \$100.00.
 - 2. Denturists:
 - a. Failure after 10 days: \$50.00.
 - b. Failure after 30 days: \$100.00.

R4-11-406. Fees for Anesthesia and Sedation Permits Fees

- A. Under A.R.S. § 32-1207(D), the fee for a Permit fees:
 - 1. Section 1301 permit to administer general anesthesia and semi-conscious sedation or a fee: \$300.00.
 - 2. Section 1302 ~~or~~ permit fee: \$300.00.
 - 3. Section 1303 permit to administer conscious or oral-conscious sedation fee: \$300.00.

Notices of Proposed Rulemaking

4. Section 1304 permit fee: is \$300.00 per location.
- B. Upon successful completion of the initial onsite evaluation and upon receipt of the required permit fee, the Board shall issue a separate Section 1301, 1302, ~~or 1303,~~ or 1304 permit to a dentist for each location requested by the dentist. A permit expires on December 31 of every ~~third~~ fifth year.
- C. ~~The renewal fee for each~~ Permit renewal fees:
 1. Section 1301 permit renewal fee: \$300.00.;
 2. Section 1302, ~~or~~ permit renewal fee: \$300.00.
 3. Section 1303 permit is renewal fee: \$300.00 per location.
 4. Section 1304 permit renewal fee: \$300.00.